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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/773,596	02/02/2001	Kazuo Ogoro	043034/0165	6241

22428 7590 05/20/2004

FOLEY AND LARDNER
SUITE 500
3000 K STREET NW
WASHINGTON, DC 20007

EXAMINER

CHANG, KENT WU

ART UNIT	PAPER NUMBER
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2673

DATE MAILED: 05/20/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Supplemental
Advisory Action

Application No.

09/773,596

Applicant(s)

OGORO, KAZUO

Examiner

Kent Chang

Art Unit

2673

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on _____. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☐ The proposed amendment(s) will not be entered because:
(a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ they raise the issue of new matter (see Note below);
(c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____

3. ☐ Applicant's reply has overcome the following rejection(s): _____.
4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☐ The a) ☐ affidavit, b) ☐ exhibit, or c) ☐ request for reconsideration has been considered but does NOT place the application in condition for allowance because: _____.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☒ ~~For purposes of Appeal, the proposed amendment(s) a) ☐ will not be entered or b) ☒ will be entered~~ ^{has been} and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: _____

Claim(s) objected to: _____

Claim(s) rejected: 1-6,8,9,11-18.

Claim(s) withdrawn from consideration: _____

8. ☐ The drawing correction filed on _____ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____.
10. ☐ Other: _____

Kent Chang
Kent Chang
Primary Examiner
Art Unit: 2673

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-6, 8, 9, and 11-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Applicant's Admitted Prior Art on pages 1-3 in view of Kawata (US Patent No. 6,076,171).

On pages 1-3, applicant admitted that it is known to turn off the backlighting of a conventional cellular phone having a display section and an input section during data inputting so as to save power. The conventional method is silent in changing the brightness of the display for power saving.

However, Kawata teaches to set the brightness of a display in a level based on the current operation mode (the current frequency in which the system is operating) of the device so as to reduce power consumption (see column 20 lines 35-63). Therefore, it would have been obvious for one of ordinary skill in the art at the time of the invention to reduce the brightness of the display as taught by Kawata in a conventional cellular phone during data inputting so as to reduce power consumption as suggested by kawata. Furthermore, since the operation of the backlighting in the conventional cell phone or a portable information processing device (as admitted on page 1 of the specification), or in the device of

Kawata, are controlled by a CPU, it is inherent that programs are included so as to enable the operation of the CPU. Such programs would have included a brightness designation program since the CPU controls the brightness of the backlighting based on the brightness level obtained by the CPU.

Consider claim 4. The conventional cellular phone include a data input mode, a data display mode, and a communication status display mode.

Consider claim 5. A conventional cellular phone includes a plurality of functions including a voice communication function, a mailing function, a short-messaging function, a phone directory function, a scheduling function, and a game function.

Consider claims 11 and 18. It would have been obvious for one of ordinary skill in the art at the time of the invention to include a brightness change mode and a no-change mode so as to provide the user choices based on the user's preference.

Consider claims 14-15. It would have been obvious for one of ordinary skill in the art at the time of the invention to use a plurality of resistor and LEDs to control the brightness level so as to simplify the driving circuit and lower the cost of the device. The examiner takes Official Notice that it is well known in the art to use LEDs for backlighting a display device.

Remarks

3. This Supplemental Advisory Action is for clarifying the issues raised by applicant's representative during a telephone interview on 5/6/04. Applicant's

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representative argued that the prior art of record fails to teach a brightness designation program as recited in claim 1. However, it should be noted that the operation of the backlighting in the conventional cell phone or a portable information processing device (as admitted on page 1 of the specification), or in the device of Kawata, are controlled by a CPU. It is inherent that programs are included with the operation of the CPU. Such programs would have included a brightness designation program, regardless whether it is a simple program for reading the value of the brightness level based on the operating frequency or a completed program for calculating the brightness level, since the CPU controls the brightness of the backlighting based on the brightness level obtained by the CPU. Applicant should note that the claimed subject matter, not the specification, is the measure of invention.

CONTACT INFORMATION

4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kent Chang whose telephone number is 703-305-4824. The examiner can normally be reached on Monday to Thursday from 9:00 AM to 6:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Bipin Shalwala, can be reached at 703-305-4938.

Any response to this action should be mailed to:

Commissioner of Patents and Trademarks

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Washington, D.C. 20231

or faxed to:

(703) 872-9314 (for Technology Center 2600 only)

Hand-delivered responses should be brought to Crystal Park II, 2121 Crystal Drive, Arlington, VA, Sixth Floor (Receptionist).

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Technology Center 2600 Customer Service Office whose telephone number is 305-9700.



Kent Chang
Primary Examiner
Art Unit 2673

Kc

5/11/04